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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,169	02/08/2005	Kurt Robinson	9335b	8612

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EXAMINER	
BEKERMAN, MICHAEL	
ART UNIT	PAPER NUMBER
3622	
MAIL DATE	DELIVERY MODE
07/14/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/524,169	ROBINSON, KURT	
	Examiner	Art Unit	
	MICHAEL BEKERMAN	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 April 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *37-58* is/are pending in the application.

4a) Of the above claim(s) *49-58* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *37-48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This action is responsive to papers filed on 4/27/2009.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. **Claims 37-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snel (Snel, Alan. "Arena's Sponsorships Creating Big Revenue". Sun Sentinel. September 24, 1998).**

Regarding claims 37, 38, 44, and 48, Snel teaches televising a hockey event (1st page, last paragraph) and using a Zamboni to wipe and smooth a planar playing field, the Zamboni having an advertisement thereon (1st page, 4th paragraph under "Full Text"). Snel does not appear to specify broadcasting the Zambonis. However, Snel does teach broadcasting other advertisements in the arena (1st page, last paragraph). It would have been obvious to one having ordinary skill in the art at the time the invention was made to specifically broadcast the Zambonis. Snel teaches the purpose of placing advertising on a Zamboni is to advertise to hockey fans (1st page, 3rd-to-last paragraph), and therefore the televising of the Zamboni will help the advertisement reach more fans at home. Snel further teaches the arena as having

seats (1st page, 2nd paragraph under "Full Text"). Since the seats are inherently placed nearby in the interest of viewing the hockey game, and the Zamboni cleans the ice where the game is played, spectators in the seats will inherently have a view of the Zambonis.

Regarding claims 39 and 40, Snel teaches National Rental Car, which pays for an advertisement on a Zamboni, as having a 10-year long agreement (1st page, 7th paragraph under "Full Text"). Once the agreement is up, naturally the advertisement could be changed should a new agreement be reached with another advertiser. While Snel teaches the Zambonis as being "dressed up" (1st page, 4th paragraph under "Full Text"), it could be argued that this does not constitute removable advertising, and it could be further argued that Snel does not appear to specify the advertisements as being removable. Since Snel discloses the advertising as running over a limited amount of time, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the advertising removable in case National Rental Car would not wish to renew the contract, and the advertising would have to be removed.

Regarding claims 41 and 45, these claims introduce the specific data content of the advertisement. It could be argued that Snel does not teach such data content. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the method (or structurally programmed) steps recited. The steps would be performed the same regardless of data content. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of Patentability, see In re Gulack, 703 F.2d 1381, 217 USPQ 401, 404 (Fed. Cir. 1983);

In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to one of ordinary skill at the time of the invention to have displayed any type of advertisement. Such data content does not functionally relate to the steps and the subjective interpretation of the data content does not patentably distinguish the claimed invention.

Regarding claims 42 and 46, while Snel teaches a hockey rink, Snel does not appear to specify other events besides hockey. Official notice is taken that events such as basketball, volleyball, roller skate hockey, roller derby, badminton, boxing, and wrestling are all old and well-known sports and entertainment events that were around before the creation of Applicant's invention. Snel teaches cleaning and preparing the field of play using a device with advertisements thereon, and it would have been obvious to one having ordinary skill in the art at the time the invention was made to use this method for any other well-known televised sporting event. This way, like in the method of Snel, downtimes in games may be used to collect more advertising revenue.

Regarding claims 43 and 47, Snel teaches companies being sponsors of the arena (1st page, 5th paragraph under "Full Text"), and therefore being indirect sponsors of the event.

Response to Arguments

2. **Applicant argues**, regarding the 103 rejections to the pending claims, "the Examiner has mischaracterized the function of the IRM. The IRM does not wipe the ice surface to remove liquid therefrom. On the contrary, the function of the IRM is to lay

down a smooth layer of hot water...to melt and smooth the rough top later of ice to create a flat smooth surface as the water freezes". Examiner would like to direct Applicant to U.S. Patent Number 3,044,193 to Frank Zamboni. This patent provides evidence to support that a Zamboni ice resurfacing machine, as described in the Snel reference, does indeed meet the claim language of removing liquid from a planar surface. The Zamboni patent discloses that an ice resurfacing machine has the ability to remove water from a planar surface (Column 2 Lines 55-56, Column 6 Lines 27-36 and 70-73, and Column 7 Lines 2-6). As further evidence, Examiner will also supply a copy of the Wikipedia page for an ice resurfacer machine that is dated December 16, 2004. The third paragraph down discloses a squeegee and vacuum pipe for picking up excess water. Therefore, the Zamboni disclosed in the Snel reference does indeed meet the requirements of the claim language for wiping the planar surface to remove liquid.

3. **Applicant argues** "the Zamboni IRM teaches away by providing the exact opposite function by depositing liquid which remains on the planar surface". As explained above, a Zamboni ice resurfacing machine does indeed remove excess water. The fact that the Zamboni lays down more water is inconsequential. The claims do not require that "no further liquid is placed on the planar surface" (nor is it believed that the specification would even have support for such a negative limitation). Therefore, the Zamboni device of Snel still meets the claim language as explained in the rejection above.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL BEKERMAN whose telephone number is (571)272-3256. The examiner can normally be reached on Monday - Friday, 9:00 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W. Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Bekerman/
Examiner, Art Unit 3622